

**UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS**

Steven B. Pollack and	)	
Blue Eco Legal Council,	)	
	)	
Plaintiffs,	)	Case Number: 08-cv-320
	)	Assigned Judge: Guzman
v.	)	Magistrate Judge: Brown
	)	
United States Department of Justice,	)	
United States Coast Guard,	)	CWA, RCRA, CERCLA, AND
United States Navy,	)	PUBLIC NUISANCE FTCA CASE
United States Marines, and	)	
United States Department of Defense,	)	
	)	
Defendants.	)	

**PLAINTIFFS' MOTION FOR LEAVE TO FILE A SUPPLEMENTAL BRIEF  
TO DEFENDANTS' MOTION TO DISMISS**

Plaintiffs request leave of Court to file a supplemental brief to Defendants' motion to dismiss because a Seventh Circuit opinion issued Monday, August 11, 2008 is relevant to the instant case. *Village of Depue v. Exxon Mobil Corporation*, No. 07-2311 (7th Cir. 8/11/2008) (7th Cir., 2008).

As explained in Plaintiffs' supplemental brief, *Depue* teaches that the 113(h) bar to review does not apply before any remedial action is selected. In the instant case, Defendants improperly try to invoke 113(h) before any remedial action has been selected.

This Court should therefore allow Plaintiffs to file a supplemental brief because it is instructive to the facts of this case.

Respectfully submitted,

s/ Steven B. Pollack  
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